

REMARKS

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Claims 1-34 remain in the application for further prosecution. Claims 9, 15 and 26 have been amended. Claims 33 and 34 have been added.

Claims 23 and 32 have been allowed. Claims 2, 5, 8, 10-12, 14, 16, 17, 19, 22, 25, 26, 28 and 31 have been objected to as being dependent upon a rejected base claim. Claims 1, 3, 4, 6, 7, 9, 13, 15, 18, 20, 21, 24, 27, 29, and 30 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 5,600,411 ("Hart"). Claims 1, 9, 13, 15, and 24 are the only independent claims in the group of the rejected claims. Reference below to claims 9 and 15 is to claims 9 and 15 as amended.

Claims 1 and 9 are both limited to a filter assembly for a circuit breaker, as stated in the preamble. Thus, claim 1 is limited to an "improved filter assembly for a circuit breaker" and claim 9 is limited to a "molded coarse hole diffuser for a filter assembly for use with a circuit breaker." The Manual of Patent Examining Procedure ("MPEP") states that a recitation of a purpose or intended use limits the claims if "the recited purpose or intended use results in a structural difference (or, in the case of process claims, manipulative difference) between the claimed invention and the prior art." MPEP Eighth Edition, Revision 1, Feb. 2003, § 2111.02, page 2100-50. A structural difference exists between the present invention and Hart because Hart does not disclose a filter assembly for use with a circuit breaker. Instead, Hart discloses a filtration device for use in a printing system. For example, the specification states that the "present invention relates to a developer apparatus for electrophotographic printing" and, specifically, to a "filter for filtering toner." Col. 1, ll. 3-5. In fact, the entire background section provides numerous examples of prior art, including nine patents, each example describing a device used in a printing machine. Some of the examples described in the background section are: a toner reclaim filtration device, col. 3, ll. 40-44, a recycling device for use in an electrophotographic copier or printer, col. 3, ll. 47-50, and a device for filling and filtering toner for use in a photocopier, col. 3, ll. 61-64. Similarly, in the description section Hart discloses that "there is shown an illustrative electrophotographic printing machine incorporating the development apparatus of the present invention," Col. 5, ll. 50-52. In fact, Hart emphasizes that the disclosed filter is used mainly with a toner system, *i.e.*, a printing machine:

It should be appreciated that the use of apparatus or filter 90 is adaptable to development systems utilizing primarily toner or toner and carrier (developer).

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Col. 7, ll. 18-21. Thus, while claims 1 and 9 of the present invention are limited to a filter assembly for use in a circuit breaker, Hart discloses a filter device for use in a printer toner device.

Claims 13 and 15 are limited to a circuit breaker including at least one filter assembly. Claim 13 is limited to a “circuit breaker comprising: a filter assembly,” and claim 15 is directed to a “method of filtering high energy arcing in a circuit breaker comprising: mounting at least two filter assemblies.” “Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation.” MPEP, § 2111.02, p. 2100-49. In claims 13 and 15 the term “circuit breaker” must be treated as a claim limitation because it limits the structure to a “circuit breaker assembly” and to a “method of filtering high energy arcing in a circuit breaker,” respectively. Thus, claims 13 and 15 are not anticipated by Hart because Hart, as explained above, does not disclose a circuit breaker.

Claims 1, 13, 15, and 24 are limited to a “filter housing having at least two filter mounting zones.” Hart does not disclose a filter housing that has two or more mounting zones for the filters. The supporting section cited by the Examiner fails to even mention either the upper filter housing body 108 or the lower filter housing body 110. As best shown in Fig. 1, neither the upper housing 108 nor the lower housing 110 includes two mounting zones for receiving two filter assemblies. Hart merely discloses that either one of the upper housing 108 and the lower housing 110 includes a single mounting zone for receiving the filter screen assembly 111, which is shown more clearly in Fig. 3. Accordingly, while claims 1, 13, 15, and 24 are limited to a housing having at least two filter mounting zones, Hart discloses a housing having one filter mounting zone. Thus, claims 1, 13, 15 and 24 are not anticipated by Hart at least for the reasons set forth above.

Claims 1 and 13 are further limited to a “filter gasket configured for interfitting about a periphery” of the filter body, wherein each filter includes a gasket. Because claims 1 and 13 are limited to having at least two filters, it necessarily follows that at least two gaskets are used, one for each filter. In Fig. 1 Hart discloses a gasket 150 which is mounted between the upper housing 108 and a mounting plate 122. The gasket 150 is not interfitted about the periphery of any of the shown filters, filter 134, filter 140, and filter 144. The specification specifically refers to only one gasket 150 which is “[l]ocated on top of the upper screen mounting plate 122.” Col. 8, ll. 60-61. Thus, while the gasket of claims 1 and 13 is interfitted about the filter body periphery, the gasket disclosed by Hart is mounted on one side of a mounting plate, which is connected to the filter 134. Further, while claims 1 and 13 are limited to at

least two gaskets, one for each filter, Hart only discloses one gasket. Thus, claims 1 and 13 are not anticipated by Hart at least for the reasons set forth above.

Claim 9 is limited to a “combined coarse hole diffuser and spacer integrally molded as a single, one-piece unit” which engages a “small hole diffuser.” Hart does not anticipate claim 9 at least because Hart does not disclose a coarse hole diffuser and spacer integrally molded as a single unit, and a coarse hole diffuser and a small hole diffuser. Although Hart discloses a filter screen plate (see filter screen plates 134, 140, and 144) and a spacer (see spacer 138 and 142), the screen plate and the spacer are not integrally molded as a single, one-piece unit. Fig. 1 clearly shows that the screen plate and the spacer are mounted together as two different parts, and the specification notes that “all components of the filter screen assembly 111 should be mechanically locked together,” col. 9, ll. 17-19, and that the “filter 111 as shown in FIG. 3 includes a sandwich of filter screen plates 134, 140, 144, . . . and screen spacers 138, 142, . . . with one spacer being placed between adjacent screen plates,” col. 9, ll. 39-42. Thus, Hart discloses two separate parts that are connected, not molded, together. There is no hint in Hart that the spacer and the filter should be molded as a single, one-piece unit. Furthermore, while claim 9 is limited to using a coarse hole and a small hole diffuser, Hart does not disclose the use of diffusers having differently-sized holes. For example, Figs. 1 and 3 clearly show that the only parts having any diffusing capability, *e.g.*, having a plurality of holes arranged in a grid-like pattern, are the filter plates themselves. However, even if it is assumed that the filter plates can be used as diffusers, all the filter plates have holes that are the same size. In fact, the specification specifically describes the “apertures 136 of the screen plates 134 and 140 [as having] a diameter  $D_a$  of approximately 325 microns.” Col. 9, ll. 66-67. Thus, claim 9 is not anticipated by Hart at least for the reasons set forth above.

Claims 3, 4, 6, 7, 18, 20, 21, 27, 29, and 30 are now in condition for allowance for at least the same reasons as presented above with respect to the corresponding independent claim. Claims 2, 5, 8, 10-12, 14, 16, 17, 19, 22, 25, 26, 28, and 31 are now in condition for allowance for at least the same reasons as presented above with respect to the corresponding independent claim. Claims 33 and 34 are in condition for allowance for at least the same reasons as presented above with respect to claim 1.

### ***Conclusion***

It should be noted that regarding the allowed claims 23 and 32, and the allowable claims 2, 5, 8, 10-12, 14, 16, 17, 19, 22, 25, 26, 28, and 31 the Examiner has stated a number of reasons for the

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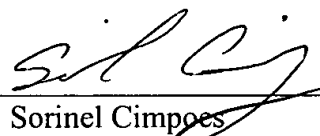
allowance of the claims. As addressed above, it is believed that the allowable claims are clearly distinguishable from the prior art. Thus, it is unnecessary for Applicants to specifically refute or address the reasons given by the Examiner regarding either the allowed claims or the allowable claims. However, Applicants' silence in this regard does not constitute an admission that the Examiner's reasons for allowance are correct or that Applicants agree with the Examiner. Applicants respectfully reserve the right to challenge the Examiner's reasons during further prosecution of this Application or post-prosecution in any proceeding involving any patent that may issue as a direct result of this Application.

It is the Applicants' belief that all the pending claims are now in condition for allowance, and thus reconsideration of this application is respectfully requested. If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

It is believed that no fee is presently due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47181-00248.

Respectfully submitted,

By



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